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**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEVADA**

In re:

USA COMMERCIAL MORTGAGE COMPANY,  
USA CAPITAL REALTY ADVISORS, LLC,<sup>1</sup>  
USA CAPITAL DIVERSIFIED TRUST DEED FUND,  
LLC,  
USA CAPITAL FIRST TRUST DEED FUND, LLC,<sup>2</sup>  
USA SECURITIES, LLC,<sup>3</sup>  
Debtors.

**Affects:**

- ☐ All Debtors  
☒ USA Commercial Mortgage Company  
☐ USA Capital Realty Advisors, LLC  
☐ USA Capital Diversified Trust Deed Fund, LLC  
☐ USA Capital First Trust Deed Fund, LLC  
☐ USA Securities, LLC

Case No. BK-S-06-10725-LBR  
Case No. BK-S-06-10726-LBR<sup>1</sup>  
Case No. BK-S-06-10727-LBR  
Case No. BK-S-06-10728-LBR<sup>2</sup>  
Case No. BK-S-06-10729-LBR<sup>3</sup>

CHAPTER 11

Jointly Administered Under Case No. BK-S-06-  
10725 LBR

**OBJECTION OF THE USACM  
LIQUIDATING TRUST TO PROOF OF  
CLAIM NO. 10725-01527 FILED BY  
CHRISTINE MILLER; AND CERTIFICATE  
OF SERVICE**

Hearing Date: December 18, 2009  
Hearing Time: 1:30 p.m.

The USACM Liquidating Trust (the "USACM Trust") objects to Proof of Claim No. 10725-01527 filed by Christine Miller in an unliquidated amount because it appears to be a duplicate of Proof of Claim No. 10725-02120 filed by Christine Miller on behalf of the Christine E. Miller Revocable Trust Dated 3/5/04 ("Miller"). This Objection is supported by the Court's record, and explained in the following Memorandum.

<sup>1</sup> This bankruptcy case was closed on September 23, 2008.

<sup>2</sup> This bankruptcy case was closed on October 12, 2007.

<sup>3</sup> This bankruptcy case was closed on December 26, 2007.

1 **I. JURISDICTION**

2 1. The Court has jurisdiction under 28 U.S.C. §§ 1334 and 157 and venue  
3 under 28 U.S.C. §§ 1408 and 1409. Under 28 U.S.C. § 157(b)(2)(B), this matter is a core  
4 proceeding.

5 2. The objection is based upon 11 U.S.C. § 502 and Bankruptcy Rule 3007.  
6

7 **II. BACKGROUND**

8 1. On April 13, 2006 (“Petition Date”), USA Commercial Mortgage  
9 Company (“USACM”) filed a voluntary petition for relief under Chapter 11 of the  
10 Bankruptcy Code. Post-petition management of the Debtors was under the direction of  
11 Thomas J. Allison of Mesirow Financial Interim Management, LLC (“Mesirow”), who  
12 served as the Chief Restructuring Officer.

13 2. On January 8, 2007, this Court entered its Order Confirming the "Debtors'  
14 Third Amended Joint Chapter 11 Plan of Reorganization" as Modified Herein [Docket No.  
15 2376].

16 3. Under the Plan, the USACM Trust is the successor to USACM with respect  
17 to standing to seek allowance and disallowance of Claims. The USACM Trust exists as of  
18 the Effective Date of the Plan, which was March 12, 2007. Geoffrey L. Berman is the  
19 Trustee.  
20

21 **III. APPLICABLE AUTHORITY**

22 1. Under the Bankruptcy Code, any Claim for which a proof of claim has been  
23 filed will be allowed unless a party in interest objects. If a party in interest objects to the  
24 proof of claim, the Court, after notice and hearing, shall determine the amount of the  
25 Claim and shall allow the Claim except to the extent that the Claim is “unenforceable  
26

1 against the debtor . . . under any . . . applicable law for a reason other than because such  
2 claim is contingent or unmatured.” 11 U.S.C. § 502(b).

3  
4 2. The creditor ultimately bears the burden of persuasion as to the validity and  
5 amount of the Claim. *See Ashford v. Consolidated Pioneer Mortg. (In re Consolidated*  
6 *Pioneer Mortg.)*, 178 B.R. 222, 226 (B.A.P. 9<sup>th</sup> Cir. 1995), *aff’d*, 91 F.3d 151 (9<sup>th</sup> Cir.  
7 1996).

8 3. The USACM Trust is entitled to object to proofs of claim under 11 U.S.C.  
9 § 502(a). This objection is timely under the Court’s orders.

#### 10 11 IV. OBJECTIONS TO CLAIMS

12 1. Proof of Claim No. 10725-02120 filed by Christine Miller on behalf of the  
13 Christine E. Miller Revocable Trust Dated 3/5/04 (“Miller”) is a \$50,000 claim that  
14 appears to be based upon a direct lender investment in the Placer Vineyards II Loan. The  
15 USACM Trust objects to Claim 10725-01527 because it was filed by Christine Miller and  
16 appears to be upon the same investment in the Placer II Loan.

17  
18 2. The USACM Trust reserves the right to modify, supplement and/or amend  
19 this Objection.  
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V. **CONCLUSION**

For the reasons discussed above, the USACM Trust objects to Proof of Claim No. 10725-01527. Proof of Claim No. 10725-02120 will not be affected by this objection. The USACM Trust requests further relief that the Court deems proper.

Dated: October 16, 2009.

**LEWIS AND ROCA LLP**

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Copy of the foregoing mailed by first  
Class postage prepaid U.S. Mail on  
October 16, 2009 to:

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